

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PSN ILLINOIS, LLC, an Illinois corporation,

plaintiff,

v.

ABCAM, INC. *et al.*,

defendants.

)
)
)
)
)
)
)
)
)
)
)

Case No. 07 CV 7190

Judge William J. Hibbler

Magistrate Judge Valdez

AMENDED COUNTERCLAIM FOR DECLARATORY JUDGMENT

The defendant, LifeSpan BioSciences, Inc., by its undersigned attorney, seeks declaratory judgments of noninfringement and invalidity, and in support states:

PARTIES AND JURISDICTION

1. This lawsuit is a civil action arising under the patent laws of the United States, including 35 U.S.C. §§ 1 *et seq.*, and under the Declaratory Judgments Act, 28 U.S.C. § 2201.
2. On information and belief, PSN is a limited liability company organized under the laws of the State of Illinois and having a principal place of business at 280 W. Adams Street, Chicago, Illinois 60604.
3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201. Additionally, this Counterclaim is compulsory and therefore is within the ancillary jurisdiction of this Court.
4. This Court has personal jurisdiction over the plaintiff/counterdefendant, PSN ILLINOIS, LLC, because, among other reasons, it is a resident of this judicial district and because it has purposely availed itself of the benefits and protection of the laws of the State of Illinois by filing this lawsuit.

Case No. 07 C 7190

Amended Counterclaim of LifeSpan BioSciences, Inc.

Page 2 of 5

5. PSN claims to be the assignee of, and to own all rights, title and interest in and to, and to have standing to sue for past, present, and future infringement of, United States Patent No. 5,856,443, *Molecular Cloning And Expression of G-Protein Coupled Receptors* and United States Patent No. 6,518,414, *Molecular Cloning And Expression of G-Protein Coupled Receptors*, [hereinafter collectively "the patents-in-suit"], which patents are the basis of and are attached to PSN's Complaint.

6. PSN asserts that LifeSpan infringed the patents-in-suit.

COUNT I

For Count I of this Counterclaim, LifeSpan states:

7. LifeSpan re-asserts the allegations in Paragraphs 1 through 6 above.

8. LifeSpan does not and has not infringed any claims of the patents-in-suit, literally or by equivalents, directly or indirectly, or in any other manner.

9. There is a substantial and continuing justiciable controversy between the parties as to infringement of the patents-in-suit by LifeSpan.

WHEREFORE, the defendant/counterplaintiff, LifeSpan, prays that this Court enter judgment in its favor and against PSN Illinois, LLC, and to:

- A. Find and declare that LifeSpan has not committed any act of infringement of United States Patent No. 5,856,443 or of United States Patent No. 6,518,414;
- B. Permanently enjoin PSN and its officers, agents, and employees from asserting that LifeSpan infringes United States Patent No. 5,856,443 or United States Patent No. 6,518,414;

Case No. 07 C 7190

Amended Counterclaim of LifeSpan BioSciences, Inc.

Page 3 of 5

- C. Declare that this case is exceptional and award LifeSpan its attorneys' fees and costs; and
- D. Grant such other and further relief to which LifeSpan may be entitled.

COUNT II

For Count I of this Counterclaim, LifeSpan states:

- 10. LifeSpan re-asserts the allegations in Paragraphs 1 through 6 above.
- 11. The patents-in-suit are invalid under the United States Patent Act.
- 12. There is a substantial and continuing justiciable controversy between the parties as to validity of the patents-in-suit by LifeSpan.

WHEREFORE, the defendant/counterplaintiff, LifeSpan, prays that this Court enter judgment in its favor and against PSN Illinois, LLC, and to:

- A. Find and declare that the claims of United States Patent No. 5,856,443 and United States Patent No. 6,518,414 are invalid;
- B. Permanently enjoin PSN and its officers, agents, and employees from asserting that United States Patent No. 5,856,443 or United States Patent No. 6,518,414 are valid;
- C. Declare that this case is exceptional and award LifeSpan its attorneys' fees and costs; and
- D. Grant such other and further relief to which LifeSpan may be entitled.

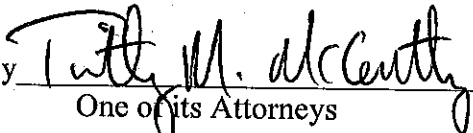
Case No. 07 C 7190

Amended Counterclaim of LifeSpan BioSciences, Inc.

Page 4 of 5

Respectfully submitted,
LIFESPAN BIOSCIENCES, INC.

Date: May 8, 2008

By 
One of its Attorneys

Timothy M. McCarthy
Trexler, Bushnell, Giangiorgi,
Blackstone & Marr, Ltd.
105 W. Adams, 36th Floor
Chicago, Illinois 60603
Tel: (312) 704-1890
Fax: (312) 704-8023

9Z1923.DOC

Case No. 07 C 7190
Amended Counterclaim of LifeSpan BioSciences, Inc.
Page 5 of 5

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Amended Counterclaim** has been served on the following counsel, by email, on May 8, 2008.

Michael P. Mazza
Dana L. Drexler
Michael P. Mazza, LLC
686 Crescent Blvd.
Glen Ellyn, IL 60139

Shawn M. Collins
Robert Dawidiuk
The Collins Law Firm
1770 N. Park Street, Suite 200
Naperville, IL 60563
Attorneys for Plaintiff PSN Illinois, LLC

Jonathan Hill
Jenner & Block
330 N. Wabash Avenue
Chicago, IL 60611

Date: May 8, 2008

By: Timothy M. McCarthy
Timothy M. McCarthy

9Z1923.DOC